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# **A SUMMARY OF ELECTION OFFENSES AND PENALTIES**

*Prepared by*  
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Honorable Charles C. Foti, Jr.**

**A MESSAGE FROM  
ATTORNEY GENERAL  
CHARLES C. FOTI, JR.**



Congratulations on your decision to become a candidate for elective office. Your decision to serve the people of Louisiana is one of the most important ones you will ever make. As Attorney General, I thank you for your courage and willingness to serve the public.

As a candidate for public office you are expected to uphold Louisiana's laws and constitution. The Attorney General's office has developed this brochure in an effort to fully educate you about

the law with regard to election policies, offenses and penalties.

Please take time to read this material carefully. Your call to public service is an important one and I hope you will find it as fulfilling as I have in my 30 year career as an elected official.

If you have any questions, please call me anytime at 225-326-6705.

**Charles Foti**  
**Attorney General**

## **A SUMMARY OF ELECTION OFFENSES & PENALTIES**

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The Louisiana Election Code, Revised Statutes 18:1 *et seq.*, regulates the conduct of elections. Sections 1461 through 1471 provide for election offenses and penalties. Those pertaining to candidates will be summarized herein.

### **I. Election Offenses**

#### **A. General offenses pertaining to candidates for office**

It is unlawful for any person to knowingly, willfully, or intentionally:

- (1) Fail, refuse, or neglect to discharge any duty imposed upon him by the election code.
- (2) Have in his possession an official ballot in violation of the election code.
- (3) Offer, promise, solicit, or accept money or anything of present or prospective value to secure or influence a vote or registration of a person.
- (4) Forge, alter, add to, deface, take, destroy, or remove from proper custodial care any book, card, record, election return, nomination papers, withdrawals of candidacy, election supplies, election paraphernalia, or any affidavit or other document required or provided under the Election Code, unless required by a court order for copying to the court record.
- (5) Intimidate, directly or indirectly, any voter or prospective voter in matters concerning voting or non-voting or registration or non-registration.
- (6) Vote or attempt to vote more than once at an election.
- (7) Offer money or anything of present or prospective value or use, directly or indirectly, any form of intimidation to influence the action or encourage inaction of any public official with regard to the duties of his office or to influence a commissioner or watcher in his decision to serve or not to serve as such or in the performance of his duties on election day.
- (8) Disobey any lawful instruction of the commissioners or a law enforcement officer assisting at the polls, or without lawful authority obstruct, hinder, or delay any voter on his way to or while returning home from any polling place where an election is being

held or on his way to or while returning home from a place where he can legally exercise a vote concerning candidate representation of his party.

(9) Vote or attempt to vote, knowing that he is not qualified, or influence or attempt to influence another to vote, knowing such voter to be unqualified or the vote to be fraudulent.

(10) Register, vote or attempt to register or vote in the name of another or in an assumed or fictitious name, or in any manner other than as provided in the election code.

(11) Have in his possession the registration certificate of another with intent to violate any provision of the election code.

(12) Supply a false answer or statement to an election official or in any document required by the election code, or execute an affidavit knowing it to contain false or incorrect information.

(13) Forge the name of another or use a fictitious name on an affidavit or document required under the election code.

(14) Unlawfully, directly or indirectly, possess, tamper with, break, impair, impede, or otherwise interfere with the maintenance, adjustment, delivery, use, or operation of any voting machine or part thereof or with any of the paraphernalia connected with or appertaining thereto.

(15) Give or offer to give, directly or indirectly, any money or thing of present or prospective value to any person who has withdrawn or who was eliminated prior or subsequent to the primary election as a candidate for public office, for the purpose of securing or giving his political support to any remaining candidates or to candidates for public office in the primary or general election.

(16) Breach any mandatory provision of the election code.

(17) Procure or submit voter registration applications that are known by the person to be materially false, fictitious, or fraudulent.

## **B. Penalties for general election offenses**

A violator shall be fined for not more than \$1,000 or imprisoned for not more than 1 year, or both. A second or succeeding offender shall be fined not more than \$2,500 or imprisoned for not more than 5 years, or both.

In addition, any candidate who is elected to public office and is convicted of an election offense as provided in (3), (5), (9), (12), (13), and (15) above, that is related to his campaign shall forfeit public office. If conviction is final prior to the candidate taking the oath of office, the candidate shall forfeit the office and it shall be declared vacant. If conviction is not final until after the candidate takes the oath of office, then at the time the conviction becomes final he shall forfeit office and shall be removed, ipso facto, from public office and the office declared vacant.

## **II. Coercion**

With regard to the nomination or election for the office of United States president, vice president, senator, congressman, presidential elector, delegate to any political party convention, or political party office, the following prohibitions apply:

### **A. Coercion prohibited by person**

(1) It is unlawful for any person to coerce or attempt to coerce another person to give or withhold a campaign contribution to influence these nominations or elections.

(2) It is unlawful for any person to affect an individual's employment by means of denial of employment, position, loss of compensation, discharge, promotion, degradation or any other change, based on an individual's contribution, promise of contribution, or failure of contribution to influence these nominations or elections.

(3) It is unlawful for any person to affect an individual by means of denial of membership or participation in any organization, loss of compensation or other benefit derived from the organization, discharge, promotion, degradation or any other change, based on an individual's contribution, promise of contribution, or failure of contribution to influence these nominations or elections.

### **B. Coercion prohibited by organization**

It is unlawful for an organization to require a person to make a contribution as a condition of membership or participation which will be used by the organization for the purpose of (1) supporting, opposing, or otherwise influencing the nominations or elections listed above; (2) supporting or opposing a proposition or question; or (3) supporting or opposing the recall of a public officer.

### **C. Coercion prohibited by political Committee/ candidate**

It is unlawful for a political committee, candidate or other person to make a contribution or expenditure using funds which were obtained through any practice

prohibited by the election code. Any contribution received by such a candidate, political committee, or other person shall escheat to the state and shall be paid over to the state.

#### **D. Penalties for coercion**

A violator shall be fined not more than \$1,000 or imprisoned for not more than 1 year, or both. A second or succeeding offender shall be fined not more than \$2,500 or imprisoned for not more than 5 years, or both.

### **III. Election Day Prohibitions**

#### **A. Electioneering on election day**

It is unlawful for any person, between the hours of 6:00 a.m. and 9:00 p.m. to perform or cause to be performed any of the following acts within any polling place on election day or wherein absentee voting is being conducted, or within a radius of six hundred feet of the entrance to any polling place:

- (1) To solicit any other person to vote for or against any candidate or proposition being voted on in such election.
- (2) To remain within the polling place or within the 600 foot barrier, except to vote, after having been directed, in writing, by an election commissioner, law enforcement officer, registrar or deputy registrar to leave the premises.
- (3) To hand out, place, or display campaign cards, pictures, or other campaign literature of any kind or description whatsoever.
- (4) To place or display political signs, pictures, or other forms of political advertising.
- (5) To possess any beverage of alcoholic content after having been directed to remove or dispose of the beverage.
- (6) To appear at a polling place in an intoxicated condition.

These provisions do not apply to private property within the 600 foot barrier which is not being used as a polling place.

#### **B. Penalties**

A violator shall be fined not more than \$500 or imprisoned for not more than 6 months, or both. A second or succeeding offender shall be fined not more than \$1,000 or imprisoned for not more than 1 year, or both.

## **IV. Political Materials**

### **A. Political materials prohibited**

(1) It is unlawful for any person to cause to be printed or assist in the distribution, transportation, or transmission of any facsimile of an official ballot, or an unofficial sample ballot which:

(a) Has the number of a candidate unless the name of the candidate to whom the ballot number was assigned is listed correctly;

(b) Contains a photograph, or likeness of any person which falsely alleges, with an intent to misrepresent, that any person or candidate, or group of candidates in an election is endorsed by or supported by another candidate, group of candidates, or other person.

(2) It is unlawful for any person to cause to be distributed, or transmitted, any oral, visual, or written material containing any statement which he knows or should be reasonably expected to know makes a false statement about a candidate for election in a primary or general election or about a proposition to be submitted to the voters.

(3) All statements relative to candidates or propositions must either (a) disclose the full name of the individual or the name of the group and the full and correct name and address of its chairman or other chief officer and whether or not they support or oppose the candidate or proposition, **or** (b) report all expenditures incurred in relation to the publication, distribution, transportation, or transmission in accordance with the Campaign Finance Disclosure Act.

Subparagraphs (2) and (3) above do **not** apply to:

(a) A statement which merely expresses support for or opposition to a candidate or proposition.

(b) A statement on bumper stickers, lapel pins and stickers, lawn signs, hat bands, badges, ribbons, or balloons, matchbooks, pens, pencils, and similar paraphernalia.

(c) Radio and television broadcasters who broadcast paid political advertisements which include the voice or picture of a candidate.

(4) It is unlawful for a person to misrepresent himself, any committee or organization under his control as speaking, writing, or acting for or on behalf of any candidate, political committee, or political party, or any employee/agent.

(5) It is unlawful for a person to willfully and knowingly participate in or conspire to participate in a plan, scheme, or design to misrepresent himself, any committee,

organization under his control or the control of another participant as speaking, writing, or acting for or on behalf of any candidate, political committee, or political party, or any employee/agent.

(6) Radio/television broadcaster who has no input in or control over a paid political announcement or advertisement, is not subject to this law in subparagraphs (4) & (5) above.

## **B. Penalties**

An affected candidate or voter is entitled to an injunction to restrain future violation of this Section. If a permanent injunction is granted, reasonable attorney fees shall be allowed to petitioner, taxed as costs to the defendant.

A violator may be punished by a fine not to exceed \$500 or imprisonment for not more than 6 months, or both.

## **V. Other Prohibitions**

### **A. Excessive charge for political advertisements**

It is unlawful for any newspaper, journal, periodical, or other publication, radio station, or television station operating in this state to assess or charge for political announcements and advertisements any amount which is in excess of the rates assessed and charged for regular commercial advertising. A violator shall be fined not more than \$500 or imprisoned for not more than 6 months, or both.

### **B. Public Funds**

It is unlawful for any public funds to be used to urge any elector to vote for or against any candidate or proposition, or to be appropriated to a candidate or political organization. The use of public funds may be used to disseminate factual information relative to a proposition appearing on an election ballot. A violator shall be fined not more than \$500 or imprisoned for not more than 6 months, or both. A second offender or succeeding offender may be fined not more than \$1000 or imprisoned for not more than 1 year, or both.

### **C. Contribution for endorsement**

It is unlawful for any person to solicit or receive funds or any thing of value from a candidate or political committee, and it is unlawful for any candidate or political committee or other person to pay any funds or any thing of value to any person for the purpose of endorsing, supporting, opposing, or securing an endorsement, support of or opposition to any candidate. This does not apply to a social function which is in support of or in opposition to a candidate or political committee. A violator shall be guilty of a



misdemeanor and fined not in excess of \$500 or imprisoned for not more than 6 months, or both.

#### **D. Bribery**

Bribery of a candidate is the giving, promising, or offering to give, directly or indirectly, a campaign contribution to a candidate, political committee, or other person, or the accepting, soliciting, offering to accept, directly or indirectly, a campaign contribution, by a candidate, political committee or other person, with the intention that the candidate will provide or influence another to provide the contributor or another person a position of public employment, an appointive governmental position, a public contract, or anything of apparent present or prospective value. A violator shall be fined not more than \$1,000 or imprisoned, with or without hard labor, for not more than 5 years, or both.

#### **E. Political Advertising**

It is unlawful for any political campaign signs to be erected, displayed, or posted on any publicly owned property or right of way, or to or on any public utility pole or stanchion. The Department of Transportation and Development is authorized by law to remove and dispose of such signs.

### **VI. Transportation of Voters**

It is lawful for any person to gratuitously transport voters to the polls on election day or to gratuitously transport voters to vote absentee, provided that:

(1) No person or political committee shall accept or agree to accept, either directly or indirectly, from a candidate, a political committee, or a person required to file reports as mandated by law, or from a person on behalf of a candidate, a political committee, or a person so required to file reports, anything of economic value, including any reimbursement of costs, for the purpose of conveying an elector or causing an elector to be conveyed in a motor vehicle to a polling place for the purpose of voting in an election or to any place where absentee voting is being conducted for the purpose of voting absentee, or for driving or being in charge of any motor vehicle being so used.

(2) No candidate, political committee, or person required to file reports as mandated by law, and no person on behalf of a candidate, a political committee, or a person so required to file reports, shall pay, or agree or offer to pay, anything of economic value, including any reimbursement of costs, to any person or political committee for the purpose of conveying an elector or causing an elector to be conveyed in a motor vehicle to a polling place for the purpose of voting in an election or to any place where absentee voting is being conducted for the purpose of voting absentee, or for driving or being in charge of a motor vehicle being so used.

**Any questions or comments regarding election offenses and penalties may be directed to my office in writing at P. O. Box 94005, Baton Rouge, Louisiana 70804-9005, or by telephone at (225) 326-6705.**